

Senate Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 132

SENATE BILL 1459

AN ACT

AMENDING TITLE 13, CHAPTER 38, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 32; AMENDING SECTION 13-4405, ARIZONA REVISED STATUTES; RELATING TO COLD CASES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 38, Arizona Revised Statutes, is amended
3 by adding article 32, to read:

4 ARTICLE 32. COLD CASES

5 13-4271. Cold case register; law enforcement agencies;
6 definition

7 A. A LAW ENFORCEMENT AGENCY THAT HAS A COLD CASE SHALL ESTABLISH AND
8 MAINTAIN A COLD CASE REGISTER. THE COLD CASE REGISTER SHALL CONSIST OF THE
9 NAMES OF ANY VICTIM, VICTIM'S FAMILY MEMBER OR OTHER LAWFUL REPRESENTATIVE OF
10 A VICTIM OF A COLD CASE WHO REQUESTS THAT THE PERSON'S NAME BE INCLUDED IN
11 THE COLD CASE REGISTER.

12 B. A LAW ENFORCEMENT AGENCY THAT MAINTAINS A COLD CASE REGISTER SHALL:

13 1. PROVIDE NOTICE OF THE LAW ENFORCEMENT AGENCY'S COLD CASE REGISTER
14 TO ANY VICTIM, VICTIM'S FAMILY MEMBER OR OTHER LAWFUL REPRESENTATIVE OF A
15 VICTIM OF A COLD CASE.

16 2. PROVIDE COLD CASE REGISTRANTS WITH THE FOLLOWING:

17 (a) THE CONTACT INFORMATION FOR THE LAW ENFORCEMENT AGENCY.

18 (b) IN A TIMELY MANNER, INFORMATION ON ANY NEW DEVELOPMENTS OR REVIEWS
19 OF THE COLD CASE.

20 3. ENCOURAGE REGISTRANTS TO CONTACT THE LAW ENFORCEMENT AGENCY IF THE
21 REGISTRANT IS AWARE OF ANY NEW INFORMATION RELATED TO THE COLD CASE.

22 C. THE NAME OF A VICTIM, A VICTIM'S FAMILY MEMBER OR ANY OTHER LAWFUL
23 REPRESENTATIVE OF A VICTIM SHALL REMAIN IN THE REGISTER FOR THREE YEARS. THE
24 LAW ENFORCEMENT AGENCY SHALL MAKE REASONABLE EFFORTS TO PROVIDE NOTICE TO THE
25 REGISTRANT OF THE END OF THE THREE YEAR PERIOD. ON REQUEST, THE LAW
26 ENFORCEMENT AGENCY SHALL EXTEND THE PERSON'S REGISTRATION FOR AN ADDITIONAL
27 THREE YEARS.

28 D. A LAW ENFORCEMENT AGENCY SHALL GIVE PRIORITY TO ANY COLD CASE THAT
29 IS ASSOCIATED WITH A NAME IN THE COLD CASE REGISTER UNLESS THERE IS A
30 COMPELLING REASON TO GIVE PRIORITY TO A COLD CASE THAT IS NOT ASSOCIATED WITH
31 A NAME IN THE COLD CASE REGISTER.

32 E. THE COLD CASE REGISTER IS NOT A PUBLIC RECORD AND IS EXEMPT FROM
33 TITLE 39, CHAPTER 1.

34 F. FOR THE PURPOSES OF THIS SECTION, "COLD CASE" MEANS A HOMICIDE OR A
35 FELONY SEXUAL OFFENSE THAT REMAINS UNSOLVED FOR ONE YEAR OR MORE AFTER BEING
36 REPORTED TO A LAW ENFORCEMENT AGENCY AND THAT HAS NO VIABLE AND UNEXPLORED
37 INVESTIGATORY LEADS.

38 Sec. 2. Section 13-4405, Arizona Revised Statutes, is amended to read:

39 13-4405. Information provided to victim by law enforcement
40 agencies

41 A. As soon after the detection of a criminal offense as the victim may
42 be contacted without interfering with an investigation or arrest, the law
43 enforcement agency that has responsibility for investigating the criminal
44 offense shall provide the victim with a multicopy form:

1 1. That allows the victim to request or waive applicable rights to
2 which the victim is entitled, on request, under this article.

3 2. That provides the victim a method to designate a lawful
4 representative if the victim chooses pursuant to section 13-4403, subsection
5 A or section 13-4404.

6 3. That provides notice to the victim of all of the following
7 information:

8 (a) The victim's right under the victims' bill of rights, article II,
9 section 2.1, Constitution of Arizona, to be treated with fairness, respect
10 and dignity and to be free of intimidation, harassment or abuse throughout
11 the criminal or juvenile justice process.

12 (b) The availability, if any, of crisis intervention services and
13 emergency and medical services and, where applicable, that medical expenses
14 arising out of the need to secure evidence may be reimbursed pursuant to
15 section 13-1414.

16 (c) In cases of domestic violence, the procedures and resources
17 available for the protection of the victim pursuant to section 13-3601.

18 (d) The names and telephone numbers of public and private victim
19 assistance programs, including the county victim compensation program and
20 programs that provide counseling, treatment and other support services.

21 (e) The police report number, if available, other identifying case
22 information and the following statement:

23 If within thirty days you are not notified of an arrest in your
24 case, you may call (the law enforcement agency's telephone
25 number) for the status of the case.

26 (f) Whether the suspect is an adult or juvenile, a statement that the
27 victim will be notified by the law enforcement agency at the earliest
28 opportunity after the arrest of a suspect.

29 (g) If the suspect is an adult and has been arrested, the victim's
30 right, on request, to be informed of the suspect's release, of the next
31 regularly scheduled time, place and date for initial appearances in the
32 jurisdiction and of the victim's right to be heard at the initial appearance
33 and that, to exercise these rights, the victim is advised to contact the
34 custodial agency regarding the suspect's release and to contact the court
35 regarding any changes to the initial appearance schedule.

36 (h) If the victim chooses to exercise the right to be heard through a
37 written statement, how that statement may be submitted to the court.

38 (i) That the victim or the immediate family member of the victim, if
39 the victim is killed or incapacitated, has the right to receive one copy of
40 the police report, INCLUDING ANY SUPPLEMENTS TO THE REPORT, from the
41 investigating law enforcement agency at no charge pursuant to section 39-127.

42 B. If at the time of contact with a law enforcement agency the victim
43 is physically or emotionally unable to request or waive applicable rights,
44 the law enforcement agency shall designate this on the multicopy form and the
45 entities that may be subsequently affected shall presume that the victim

1 1. That allows the victim to request or waive applicable rights to
2 which the victim is entitled, on request, under this article.

3 2. That provides the victim a method to designate a lawful
4 representative if the victim chooses pursuant to section 13-4403, subsection
5 A or section 13-4404.

6 3. That provides notice to the victim of all of the following
7 information:

8 (a) The victim's right under the victims' bill of rights, article II,
9 section 2.1, Constitution of Arizona, to be treated with fairness, respect
10 and dignity and to be free of intimidation, harassment or abuse throughout
11 the criminal or juvenile justice process.

12 (b) The availability, if any, of crisis intervention services and
13 emergency and medical services and, where applicable, that medical expenses
14 arising out of the need to secure evidence may be reimbursed pursuant to
15 section 13-1414.

16 (c) In cases of domestic violence, the procedures and resources
17 available for the protection of the victim pursuant to section 13-3601.

18 (d) The names and telephone numbers of public and private victim
19 assistance programs, including the county victim compensation program and
20 programs that provide counseling, treatment and other support services.

21 (e) The police report number, if available, other identifying case
22 information and the following statement:

23 If within thirty days you are not notified of an arrest in your
24 case, you may call (the law enforcement agency's telephone
25 number) for the status of the case.

26 (f) Whether the suspect is an adult or juvenile, a statement that the
27 victim will be notified by the law enforcement agency at the earliest
28 opportunity after the arrest of a suspect.

29 (g) If the suspect is an adult and has been arrested, the victim's
30 right, on request, to be informed of the suspect's release, of the next
31 regularly scheduled time, place and date for initial appearances in the
32 jurisdiction and of the victim's right to be heard at the initial appearance
33 and that, to exercise these rights, the victim is advised to contact the
34 custodial agency regarding the suspect's release and to contact the court
35 regarding any changes to the initial appearance schedule.

36 (h) If the victim chooses to exercise the right to be heard through a
37 written statement, how that statement may be submitted to the court.

38 (i) That the victim or the immediate family member of the victim, if
39 the victim is killed or incapacitated, has the right to receive one copy of
40 the police report, INCLUDING ANY SUPPLEMENTS TO THE REPORT, from the
41 investigating law enforcement agency at no charge pursuant to section 39-127.

42 B. If at the time of contact with a law enforcement agency the victim
43 is physically or emotionally unable to request or waive applicable rights,
44 the law enforcement agency shall designate this on the multicopy form and the
45 entities that may be subsequently affected shall presume that the victim

1 invoked the victim's right to request applicable rights to which the victim
2 is entitled, on request, unless the victim later waives those rights.

3 C. The law enforcement agency shall submit a copy of the victim's
4 request or waiver of preconviction rights form to the custodial agency and a
5 copy to the prosecutor if a suspect is arrested, at the time the suspect is
6 taken into custody. If there is no arrest, the form copies shall be
7 submitted to the prosecutor at the time the case is otherwise presented to
8 the prosecutor for review. The prosecutor shall submit a copy of the
9 victim's request or waiver of preconviction rights form to the departments or
10 sections of the prosecutor's office, if applicable, that are mandated by this
11 article to provide victims' rights services on request.

12 D. If the suspected offender is cited and released, the law
13 enforcement agency responsible for investigating the offense shall inform the
14 victim of the court date and how to obtain additional information about the
15 subsequent criminal proceedings.

16 E. Law enforcement agencies within a county may establish different
17 procedures designed to efficiently and effectively provide notice of the
18 victim's rights pursuant to this section and notice to affected entities of
19 the victim request or waiver information. If different procedures are
20 established, the procedures shall:

21 1. Be reported to the entities within a county affected by the
22 procedures and reported to the attorney general.

23 2. Be designed so that custodial agencies and prosecutors within a
24 county receive notice of the victim's request or waiver of the victim's
25 preconviction rights at the same time that an adult suspect is arrested.

26 3. Be designed so that prosecutors within a county receive notice of
27 the victim's request or waiver of the victim's preconviction rights, if there
28 is no arrest, at the same time that the case is otherwise presented to the
29 prosecutor for review.

30 4. Provide that the notice to affected entities of a victim's request
31 or waiver of the victim's preconviction rights includes information that
32 affords the affected entity the ability to contact the victim.

33 5. Be supported by use of brochures, forms or other written materials
34 that are developed by the law enforcement agencies within a county and
35 reviewed by the attorney general pursuant to section 13-4417, subsection B.

36 F. If a suspect has not been arrested at the time of contact with the
37 victim pursuant to subsection A of this section, the law enforcement agency
38 that is responsible for investigating the offense shall notify the victim of
39 the arrest of a suspect at the earliest opportunity after the arrest and of
40 the time, place and date for the initial appearance.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.